

HOUSE JOINT RESOLUTION 607

By Hardaway

A RESOLUTION to amend Article II, Section 28 of the Constitution of Tennessee, to prohibit taxation upon income.

WHEREAS, this resolution shall be known as the "Truth in Taxing" Amendment; and

WHEREAS, not having a state income tax has brought jobs to Tennessee, and clarifying this prohibition will help Tennessee become the number one state in the southeast for high quality jobs; and

WHEREAS, Article II, Section 28, of the Constitution of Tennessee currently prohibits the levying of a tax on any class of income other than income derived from stocks and bonds; and

WHEREAS, in 1932, in the case of Evans v. McCabe, 52 S.W.2d 159; once again in 1960, in the case of Jack Cole Co. v. MacFarland, 337 S.W.2d 453; and still again in 1964, in the case of Gallagher v. Butler, 378 S.W.2d 161; the Tennessee Supreme Court unanimously ruled that the General Assembly lacks constitutional authority to levy a state tax on any class of income other than income derived from stocks and bonds; and

WHEREAS, the aforementioned decisions of the Tennessee Supreme Court have never been overruled; and

WHEREAS, clearly, the General Assembly can neither exercise nor delegate authority it lacks; and

WHEREAS, any tax measured by an individual's earned income, an employee's salary, or an employer's payroll would be harmful to Tennesseans and is contrary to the longstanding public policy of this state and its political subdivisions; and

WHEREAS, by this resolution, the General Assembly seeks to clarify the language by which the Constitution of Tennessee currently prohibits the levying of a tax on any class of

income and seeks to explicitly prohibit the levying of a tax on income derived from stocks and bonds; now, therefore,

BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVE OF THE ONE HUNDRED SEVENTH GENERAL ASSEMBLY OF THE STATE OF TENNESSEE, THE SENATE CONCURRING, that a majority of all the members of each house concurring, as shown by the yeas and nays entered on their journals, that it is proposed that Article II, Section 28 of the Constitution of the State of Tennessee be amended by deleting the last sentence of the final substantive paragraph within the section and by substituting instead the following:

Notwithstanding the authority to tax privileges or any other authority set forth in this Constitution, the Legislature shall not levy, authorize or otherwise permit any state or local tax upon payroll or personal income, earned or unearned, or any state or local tax measured by payroll or personal income, earned or unearned.

BE IT FURTHER RESOLVED, that the foregoing amendment be referred to the One Hundred Eighth General Assembly and that this resolution proposing such amendment be published in compliance with Article XI, Section 3 of the Constitution of Tennessee.

BE IT FURTHER RESOLVED, that the clerk of the house is directed to deliver copies of this resolution to the secretary of state and to the director of the office of legislative information services.